

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE  
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE**

**Meeting Minutes**

**May 10, 2004**

**Torrance, California**

**MEMBERS**

Scott Beylik  
Dennis Peitso  
Russell Hall  
Steven Erickson  
Gene Etheridge  
Edith Clark  
Jerry Gonce  
Harry Brown-Hiegel  
Greta Dunlap  
Howell Tumlin  
Mary Lou Weiss  
Scott Hudson  
Karol Jo Kappel  
Jim Russell

**ALTERNATES MEMBERS**

Pompea Smith  
Jane Allen  
Mary Hillebrecht

**CDFA**

Janice Price

**INTERESTED PARTIES**

Polly Ward  
Stephen Vodantis  
Laura Avery  
Doug Lewis, Lewis Family Farm,  
PCFMA Representative  
Karen Wetzel Schott, Ventura  
Certified Farmers' Market  
Dale Whitney, Harbor Area  
Certified Farmers' Market  
Jim Murez  
Vidac Morga, Bautista Ranch

**ITEM 1: ROLL CALL**

Jerry Gonce called the meeting to order. Jane Allen led the committee in the pledge of allegiance. Janice Price called the roll and a quorum was established.

**ITEM 1A: INTRODUCTION OF GUESTS**

Introductions were made.

**ITEM 2: APPROVAL OF MARCH 8, 2004 MEETING MINUTES**

Rusty Hall asked that the minutes be amended to state that the walnut oil and cilantro spoken of in item 4F reflect the fact that the appellant admitted they were flavorings.

**MOTION:** Dennis Peitso moved to approve the minutes as amended. Greta Dunlap seconded. The motion passed unanimously.

**ITEM 3: APPROVAL OF AGENDA**

Jerry Gonce requested that Southland's 17 Point Legislative Proposal be added as Item 6.C. to the agenda. The committee agreed.

**MOTION:** Mary Lou Weiss moved to approve the agenda as amended. Edith Clark seconded. The motion passed unanimously.

#### **ITEM 4: REPORTS**

A. CFM REMITTANCE FEE AND DELINQUENT MARKET REPORTS: 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> QUARTERS, 2003 AND 1<sup>st</sup> QUARTER, 2004 – JANICE PRICE

Reports were included in the committee packet. Mary Lou Weiss asked if the markets listed on the 2003, 2<sup>nd</sup> Second Quarter report has been contacted regarding their continued delinquency. Janice stated that they have received notices, calls, and warning of possible legal action.

B. CDFA BUDGET REPORTS: FEBRUARY AND MARCH, 2004 – JANICE PRICE

Reports included in the committee packet. No discussion at this time.

C. CDFA 1<sup>st</sup> QUARTER 2004 TASK REPORT – JANICE PRICE

Report included in the committee packet. Janice reported that she has been working with the counties on a reported case of an altered certified producers certificate. Unfortunately, the individual who altered the dates on this certificate is not included under the definition of "person" as written in Section 47025 of the Food and Agriculture Code. Janice suggested that the committee look at changing the language to be more inclusive. Jerry Gonce asked that the record show that Scott Beylik was present.

D. STATUS OF APPROVED CFMAC PROPOSED REGULATIONS – JANICE PRICE

Janice explained that the new regulation proposals are currently in the process of review. She expects that there will be no public hearing. However, if requested, a public hearing will be held. After the CDFA approves the regulatory package, the package will be forwarded to the Office of Administrative Law for their approval, and then the industry will be noticed of the proposed regulation changes. These proposals are in regards to:

- Definition of sprouts for the purpose of practicing the agricultural arts to sell at CFMs.
- Requirement of Market Operators to have a current certificate when in operation.
- Requirement that farmers claiming organic have their registration and certificate (when applicable).

Janice has discussed this committee's proposed CA Code of Regulation, Section 1392.9(c) and (d), with various agricultural commissioners. They read:

"(c) A certified farmers' market operator or designated agent shall not allow, grant permission nor charge a fee to an individual or entity for the privilege of offering for sale any agricultural product not grown in California where the offering is made outside of but in proximity to a certified farmers' market.

(d) A certified farmers' market operator or designated agent shall not allow or grant permission to sell or display, nor allow, grant permission nor charge a fee to an individual or entity for the opportunity to resell or display, certifiable agricultural products where the offering for sale or display occurs outside of but in proximity to a certified farmers' market. In all cases, certifiable agricultural products must be sold within the area designated as the certified farmers' market."

The preliminary feedback is that the word "proximity" would need to be defined and that the proposed regulation would be unenforceable. The County Agricultural Commissioners and Sealers Association (CACASA) will be discussing this further at their next meeting.

#### E. CDFA MARKET FEE COMPARISON FOR 2002 AND 2003 – JANICE PRICE

Janice explained that by comparing the revenue reports for 2002 to 2003, that 2003 showed an increase in revenue of approximately \$2,200.

#### F. AGRICULTURAL COMMISSIONERS

Scott Hudson reported that CACASA is meeting today in Mammoth Lake. It was asked that the CFMAC's CACASA Coordinating Subcommittee be notified regarding all upcoming CACASA meetings. The members of this subcommittee were reported as Terrance Faulkner, Joel Kiff, Jane Allen, Greta Dunlap, Scott Beylik, Jim Russell, Mary Lou Weiss, Russell Hall, Karol Jo Kappel, and Jerry Gonce.

#### G. LONG RANGE PLANNING SUB-COMMITTEE – JANE ALLEN, CHAIR

No report at this time.

H. FINANCE SUB-COMMITTEE – SCOTT BEYLIK, CHAIR

No report at this time.

I. NURSERY STOCK/CUT FLOWERS SUB-COMMITTEE - MARY LOU WEISS,  
CHAIR

No report at this time.

J. MARKET STANDARDS/MANAGER CERTIFICATION SUB-COMMITTEE -  
HOWELL TUMLIN, CHAIR

No report at this time.

K. ENFORCEMENT/MATRIX SUB-COMMITTEE – SCOTT HUDSON, CHAIR

No report at this time.

L. NON-CERTIFIABLE AGRICULTURAL PRODUCTS SUB-COMMITTEE – JIM  
RUSSELL, CHAIR

Jim Russell provided the CFMAC members with a written report of this subcommittee's April 19, 2004 teleconference. Item 5.A. will address these issues further.

M. CHAIRMAN'S REPORT – JERRY GONCE

No report at this time.

**ITEM 5: COMMITTEE BUSINESS**

A. PROPOSED AMENDMENT TO CCR SECTION 1392.2 (m), DEFINITION OF  
NON-CERTIFIABLE AGRICULTURAL PRODUCTS – JIM RUSSELL

Mary Lou Weiss objected to presenting this amendment since the Non-certifiable Agricultural Subcommittee did not have a quorum when it voted on this amendment. Discussion ensued regarding the necessity of the subcommittee's approval before the issue could be discussed.

**MOTION:** Mary Hillebrecht moved to put the amendment of Section 1392.2(m) before the committee. Edith Clark seconded. The motion passed with nine approvals, one against, and three abstentions.

Jim Russell read the proposed amendment as follows:

“...For the purposes of this subsection, “processed agricultural products” shall be defined as the simple, mechanical processing of an agricultural product, such as juicing, drying or shelling, provided, however, that the seller has produced all of the ingredients contained in the product. The only exception to this production requirement shall be the inclusion of an ingredient used as a preservative, seasoning or is otherwise required in the common preparation of the product, such as salt; natural smoking of meats; sulfites added to dried fruits and vegetables; sugar added in the making of jams and preservatives; and salt brine solution for curing and pickling of olives and cucumbers. A seller of processed agricultural products must document compliance with these production requirements, must have a copy of the documentation in his or her possession at the point of sale, and must make this documentation available upon request of an enforcing officer.”

Janice Price expressed the Department's concern with this proposed regulation. The Department is concerned that the proposed definition is unclear and inconsistent as found in a recent CDFA appeal decision regarding a non-certifiable processed agricultural product. Janice posed a question to the CFMAC as to why the Department would propose a regulation change of a definition that cannot be understood and interpreted by members of the industry. An effective and clear regulation should provide the CDFA with a definition that can be defended in the case of an appeal. CDFA will not move forward with this proposal unless the language is clearly defined.

A lengthy discussion ensued regarding the issues related to this amendment.

**MOTION:** Howell Tumlin moved to amend 1392.2(m) as written above, with the exception of deleting the words “...seasoning or is otherwise required in the common preparation of the product...” Harry Brown-Hiegel seconded. Discussion ensued.

**MOTION:** Jim Russell moved to cease discussion on this matter. No second required. Motion failed.

**MOTION:** Howell Tumlin moved to amend 1392.2(m) by combining his first motion with the addition of the language "With the exception of seasonings for nuts" in front of "The only exception to this production requirement shall be the inclusion of an ingredient..." Jim Russell seconded. Discussion ensued. There was a call to vote. The motion passed with seven approvals and five against.

**MOTION:** Jim Russell moved to accept the proposed language as presented. Harry Brown-Hiegel seconded. The motion passed with eight approvals and five against.

**MOTION:** Jim Russell moved to amend 1392.2(m) by changing the wording "sugar added in the making of jams and preservatives" to "sugar and pectin added in the making of jams, jellies, preserves, wine, and cheese". No second given. Motion failed.

**MOTION:** Howell Tumlin moved to amend to 1392.2(m) by changing the wording "sugar added in the making of jams and preservatives" to "sugar and pectin added in the making of jams, jellies, and preserves". Scott Hudson seconded. The motion passed with eight approvals and five against.

The approved amendment reads as follows:

"...For the purposes of this subsection, "processed agricultural products" shall be defined as the simple, mechanical processing of an agricultural product, such as juicing, drying or shelling, provided, however, that the seller has produced all of the ingredients contained in the product. With the exception of seasonings for nuts, the only exception to this production requirement shall be the inclusion of an ingredient used as a preservative, such as salt; natural smoking of meats; sulfites added to dried fruits and vegetables; sugar and pectin added in the making of jams, jellies, and preserves; and salt brine solution for curing and pickling olives and cucumbers. A seller of processed agricultural products must document compliance with these production requirements, must have a copy of the documentation in his or her possession at the point of sale, and must make this documentation available upon request of an enforcing officer."

#### B. AMENDMENT TO CFMAC PROCEDURES FOR SUB-COMMITTEE ACTIONS – GRETA DUNLAP

Greta Dunlap submitted the following to be added to the CFMAC Procedures:

**"Subcommittee Action:** A majority of the members of a subcommittee must be in attendance at the meeting or during the teleconference to adopt resolutions constituting subcommittee action. Only the persons physically present at the meeting or present on the teleconference call may be counted for the purposes of establishing a quorum or determining the outcome of a vote. All meetings, whether in person or by teleconference, shall be open and public and all persons shall be permitted to participate in any meeting and in other respects shall conform to the requirements of the Bagley-Keene Open Meeting Act."

**MOTION:** Greta Dunlap moved to adopt the "subcommittee action" to the CFMAC Procedures as submitted. Steven Erickson seconded.

**MOTION:** Jim Russell moved to amend the "subcommittee action" phrase, "Only the persons physically..." to "Only the subcommittee members physically..." Karol Jo Kappel seconded. The motion passed.

**MOTION:** Howell Tumlin moved to create a Policies and Procedures subcommittee that will review, write, and recommend the addition of all things relative to procedures for the CFMAC. Jim Russell seconded. The motion passed.

C. CDFA CERTIFIED PRODUCER GRIEVANCE FILING FEE PROPOSAL – JERRY GONCE

As costs for various administrative hearings have been substantial, Jerry Gonce proposed to begin charging a "filing fee" for written requests to the Department for hearings.

**MOTION:** Edith Clark moved to approve the referral of this matter to the Finance Subcommittee for study and to report back with recommendations at the September meeting. Karol Jo Kappel seconded. The motion passed.

**ITEM 6: NEW BUSINESS (DISCUSSION ONLY)**

A. BAGLEY-KEENE OPEN MEETING ACT – MARY LOU WEISS

Mary Lou Weiss asked that the committee procedures be amended to include the rules that need to be followed during the operation of meetings. It was decided that this topic would be added as an action item to the next meeting agenda.

B. SET LATE PENALTY FEE FOR EMERGENCY REGULATION (BASED ON PASSAGE OF AB 1726) – JANICE PRICE

Janice Price reported that based on the passage of AB 1726, a late penalty fee needs to be set through the regulatory process. AB 1726 gives the Department authority to charge a late fee when a market has not paid their fees within the time allowed. Scott Beylik will be setting up a Finance Subcommittee meeting to discuss this issue.

C. SOUTHLAND'S 17 RECOMMENDATIONS FOR CHANGE

Doug Lewis, of Lewis Family Farms, representative of Pacific Coast Farmers' Market Association (PCFMA), presented a letter to CDFA and the CFMAC that addressed PCFMA's concerns with Southland's legislative memorandum dated April 25, 2004. Howell Tumlin reported Southland's 17 Point Recommendation is not yet ready to be moved to committee action. Howell Tumlin invited all to look at Southland's website for more information regarding the 17 recommendations. The website is: <http://www.cafarmersmarkets.org/>

Janice Price reminded all that the CFMAC does not propose legislation. This committee acts in an advisory capacity to the Secretary of Agriculture on all things related to the direct marketing industry. Southland's 17 points would be legislative; thus, this committee can discuss these items but would not propose the legislation.

D. CACASA'S DIRECT MARKETING PROPOSALS – SCOTT HUDSON

Scott Hudson handed out a discussion paper to all committee members regarding CACASA's Direct Marketing Proposals. These proposals are meant to help the Direct Marketing Program return back to it's original intent. These proposals include:

- Charge a stall fee that will adequately fund both the State and County Direct Marketing Programs
- Have audit based inspections
- Limit the second certificates
- More information on the Certified Producer Certificate
- Load List submissions
- Better identification of certified producer stalls
- Change nursery stock from a certifiable agricultural product to a non-certifiable agricultural product



- Allow only non-processed agricultural products at certified farmers' markets.

#### E. DEVELOPMENT OF POLICIES AND PROCEDURES SUBCOMMITTEE

**MOTION:** Howell Tumlin moved to have Mary Hillebrecht, Howell Tumlin, Jane Allen, Steve Erickson, and Pompea Smith serve as members of the Policies and Procedures Subcommittee. Edith Clark seconded. The motion passed unanimously.

Howell Tumlin will be chair of this subcommittee.

#### **ITEM 7: MEMBER ROUNDTALBE DISCUSSION – JERRY GONCE**

Howell Tumlin brought up the subject of fish being sold in the CFMs. He would like the Non-Certifiable Agriculture Subcommittee to discuss if fish is a non-agricultural product, a non-certifiable agricultural product, or something else. This subject may be discussed further at a future meeting.

Janice Price reminded those who have not turned in their appointment packages to do so as soon as possible.

#### **ITEM 8: NEXT MEETING JULY 12, 2004 – SACRAMENTO/NEW AGENDA ITEMS – JERRY GONCE**

The July 12, 2004, CFMAC meeting will be Jerry Gonce's last meeting as a member and as chair.

#### **ITEM 8: ADJOURNMENT**

**MOTION:** Mary Lou Weiss moved to adjourn the meeting. Harry Brown-Hiegel seconded. The motion passed unanimously.

Respectfully submitted by:

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Janice Price, Supervisor  
Certified Farmers' Market Program  
Inspection and Compliance  
Inspection Services